

State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT CHANGE

Changed Point of Diversion

PRIORITY DATE January 1, 1878 (class 17)	WATER RIGHT NUMBER Walla Walla Adjudicated Certificate No. 120(A)
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MAILING ADDRESS Ray Pringle, Allen Ketelsen, Mike Needham 1037 Brevor Place Walla Walla, WA 99362	SITE ADDRESS (IF DIFFERENT)
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Total Quantity Authorized for Diversion

MAXIMUM DIVERSION RATE 0.093	UNITS CFS	ANNUAL QUANTITY (AF/YR) 17
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Purpose

PURPOSE Irrigation	DIVERSION RATE 0.062 CFS from 04/01 to 07/01 0.047 CFS from 07/01 to 10/01 0.093 CFS from 10/1 to 04/01*	ANNUAL QUANTITY (AF/YR) 17
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*when allowed in accordance with the Walla Walla Adjudication

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE 4.4	NON-ADDITIVE	WATER SYSTEM ID	CONNECTIONS

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Walla Walla	Yellowhawk Creek	Walla Walla River	32-Walla Walla

SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Yellowhawk Creek	360723320018	7 N.	36 E.	23	NW¼SW¼	46.0707 °N 118.2835° E	Datum: NAD83/WGS84

REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

360723320018

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Beginning at a point on the north line of the SW¼ of Section 23 in Twp. 7 N., Rng. 36 E.W.M., which point is south 89°45' west 12.12 chains, from the NE corner of the NW¼ of the SW¼ of said section 23, thence, south 00°15' west 5.6 chains, thence 52°30' west 9.80 chains, more or less, to a point which is 0.45 chains east of the west line of said section 23, thence 6.74 chains; thence east 0.15 chains; thence north 0.75 chains; thence west 0.60 chains; thence north along the west line of said section 23, to the NW corner of the SW¼ of said section 23, thence north 89°45' east along the north line of said SW¼, to the point of beginning.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACTS TO WIT:

Parcel A: Beginning at a point in the north line of the southwest quarter of Section 23 in Township 7 North, Range 36 east of the Willamette Meridian, which is south 89 degrees 45' west, a distance of 799.92 feet from the northeast corner of the northwest quarter of the southwest quarter of said section 23; thence south 00 degrees 15' west 21.88 feet; thence south 62 degrees 51' west 45.02 feet to the true point of beginning for this description; from said true point of beginning run thence south 00 degrees 15' west 155 feet; thence south 75 degrees 15' west 105.0 feet; thence north 48 degrees 45' west 92 feet; thence north 43 degrees 00' east 87 feet thence north 62 degrees 51' east 125.87 feet to the said true point of beginning.

Parcel B: Beginning at a point in the north line of the southwest quarter of section 23 in township 7 north, range 36 east of the Willamette meridian, which point is 799.92 feet west, measured along said north line, from the northeast corner of the northwest quarter of the southwest quarter of said section 23, and running thence south 00 degrees 15' west 21.88 feet to the true point of beginning for this description; continue south 00 degrees 15' west 347.72 feet; thence south 52 degrees 30' west 120.48 feet; thence north 34 degrees 23' west 281 feet; thence north 43 degrees 00' east 65 feet; thence south 48 degrees 45' east 92 feet; thence north 75 degrees 15' east 105 feet; thence north 00 degrees 15' east 155 feet; thence north 62 degrees 51' east 45.02 feet to the true point of beginning.

Parcel C: Beginning at a point in the north line of the southwest quarter of section 23 in township 7 north, Range 26 east of the Willamette Meridian, which point is 799.92 feet west measured along the north line of the northwest quarter of the southwest quarter of said section 23 from the northeast corner thereof; and running thence south 00 degrees 15' west 21.88 feet; thence south 62 degrees 51' west 83 feet; thence north 49 degrees 33' west 91.12 feet to a point in the north line of said northwest quarter of southwest quarter of said section 23; thence east, along the said north line, a distance of 143.28 feet to the point of beginning.

Except therefrom the following described tract, to wit: Beginning at a point in the north line of the southwest quarter of section 23 in township 7 north, range 36 east of the Willamette meridian, which is 915.2 feet west measured along said north line, from the northeast corner of the northwest quarter of the southwest quarter of said section 23, and running thence east along the said north line 48 feet, thence south 43 degrees 24' west 30 feet; thence north 51 degrees 30 west 35 feet to the point of beginning.

Proposed Works

Pumpstation, mainlines and handline irrigation system

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	April 1, 2016	April 1, 2017

Measurement of Water Use

How often must water use be measured?	Monthly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

When the supply of water for irrigation purposes from April 1 to October 1 is insufficient in the Walla Walla Valley to fill any right contained in the foregoing schedule, the owner of such right is entitled to divert water during the period of October 1 to April 1.

Measurements, Monitoring, Metering and Reporting

An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Eastern Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Eastern Regional Office for forms to submit your water use data.

The total diversion capacity will need to be verified and reduced if necessary. The maximum authorized quantities are 0.062 CFS (28 gpm) from 04/01 to 07/01, 0.047 CFS (21 gpm) from 07/01 to 10/01 and 0.093 CFS (42 gpm) from 10/1 to 04/01.

Department of Fish and Wildlife Requirement(s)

The intake(s) must be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

No dam or weir may be constructed in connection with this diversion.

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: <http://dor.wa.gov/>. E-mail: REETSP@DOR.WA.GOV.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application for change to Walla Walla River Adjudicated Surface Water Certificate No. 120(A), subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 7th day of January, 2015.



 Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Dan Tolleson, Department of Ecology

Water Right Control Number CS3-*28120J(A)

Walla Walla River Adjudicated Surface Water Certificate No. 120(A)

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number CS3-*28120J(A). They propose to change the point of diversion to Walla Walla River Adjudicated Surface Water Certificate No. 120(A).

EXISTING Water Right Attributes

Water Right Owner:	Ray Pringle, Allen Ketelsen, Mike Needham		
Priority Date:	1/1/1878		
Place of Use	Within a portion of the NW¼SW¼ of Section 23, T. 7 N., R. 36 E.W.M., more particularly described on the water right superseding certificate dated 10/23/2006.		

County	Waterbody	Tributary To	WRIA
Walla Walla	Yellowhawk Creek	Walla Walla River	32-Walla Walla

Purpose	Diversion Rate	Annual Quantity (Af/Yr)
Irrigation of 4.65 acres	0.062 CFS from 04/01 to 07/01	23.25
	0.047 CFS from 07/01 to 10/01	
	0.093 CFS from 10/1 to 04/01*	

*when allowed in accordance with the Walla Walla Adjudication

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Yellowhawk Creek		7 N.	36 E.	23	NE¼NW¼SW¼SW¼		

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Ray Pringle, Allen Ketelsen, Mike Needham		
Date of Application:	8/22/2006		
Place of Use	No change		

County	Waterbody	Tributary To	WRIA
Walla Walla	Yellowhawk Creek	Walla Walla River	32-Walla Walla

Purpose	Diversion Rate	Annual Quantity (Af/Yr)
Irrigation of 4.65 acres	0.062 CFS from 04/01 to 07/01	23.25
	0.047 CFS from 07/01 to 10/01	
	0.093 CFS from 10/1 to 04/01*	

*when allowed in accordance with the Walla Walla Adjudication

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Yellowhawk Creek	360723320018	7 N.	36 E.	23	NW¼SW¼	46.0707 °N	118.2835° E

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the proposed change.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Walla Walla Union-Bulletin on November 27 and December 4, 2006. No protests were filed against this application.

Consultation with the Department of Fish and Wildlife

The Department of Ecology must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. This notice was submitted via email on 9/25/2014 to Steve Boessow. A letter was received from WDFW on 9/25/2014 that indicated they do not oppose the change since it will not have any additional impacts. The project is subject to state Hydraulic Code (Chapter 77.55 RCW) and fish screening statutes (RCW 77.57.010, RCW 77.57.040 and RCW 77.57.070). Contact the Department of Fish and Wildlife, at 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Program or by phone at (360) 902-2534, if you have questions about screening criteria.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute;

- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

INVESTIGATION

In considering the proposed application, the investigation included, but was not limited to, research and review of: (1) appropriate rules and statutes; (2) other water rights, permits, and claims; (3) USGS topographic maps and aerial photographs; (4) diversion works and place of use; (5) Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32 and Watershed Planning; (6) State of Washington Irrigation Guide (Natural Resources Conservation Service 1997); (7) Walla Walla River Adjudication; and (8) discussions with Department of Ecology regional program staff.

A field investigation was conducted, by Dan Tolleson, with Ray Pringle on September 23, 2014. The project is located at the eastern edge of the City of Walla Walla, Washington. The water right is located in the Walla Walla Basin, which is managed under Chapter 173-532 WAC Water Resources Program for the Walla Walla River Basin, WRIA 32.

The place of use describes five acres of land within a portion of the NW¼SW¼ of Section 23, T. 7 N., R. 36 E.W.M. The project is located on a relatively flat parcel that is divided by Yellowhawk Creek, with Greenwood Lane as the northern boundary. Significant riparian vegetation exists along the creek. Much of the place of use north of the creek is a green lawn. The land south of the creek is mostly irrigated as a baseball field. Two old sheds and a gravel parking lot are located within the place of use. The irrigation system consists of a single pump station, mainlines and handlines.

The authorized point of diversion was described as being from Yellowhawk Creek and located within the NE¼NW¼SW¼ of Section 23, Township 7 N., Range 36 E.W.M. The location was obviously issued in error since it describes a hillside, which is far removed from Yellowhawk Creek. The actual intended point of diversion is unknown.

The proposed point of division is located in the NW¼SW¼ of Section 23, Township 7 N., Range 36 E.W.M. According to the applicants this point of diversion has been in use for many years. The system consists of 3 hp centrifugal pump, with a fish screen and a flow meter. The flow meter does not work and has reportedly been broken for several years. The flow meter will need to either be repaired or replaced in accordance with "Requirements for Measuring and Reporting Water Use", WAC 173-173.

History of Water Use

Walla Walla River Adjudicated Surface Water Certificate No. 120 was issued in 1929 under the adjudication. In 1948, a certificate of change was issued that moved the point of diversion, but appears to have been issued in error. In 2006, Certificate 120 was divided into two portions under a Request for Administrative Confirmation of Division of a Water Right. During that time this application for change to correct the point of diversion was filed.

Aerial photographs were used to help verify the extent of development, historical and beneficial use of this water right. Historically it appears that most of the place of use was irrigated, but over time there has been a small reduction in the amount of land irrigated. This reduction was primarily due to changes in irrigation practices and the construction of buildings and roads. In the most recent twenty-five years or so, only 4.4 acres have been consistently irrigated within the place of use described under Certificate 120(A). The remaining 0.25 of an acre has been relinquished from non-use since it was not been put to beneficial use in over five years and does not fall under one of the exceptions.

It should be noted that the authorized place of use and the land actually irrigated are not exactly the same, since the lot described under parcel number 360723320018 is slightly larger. It is recommended that the applicant file a second application to change the place of use to what is actually irrigated.

The application was filed by Ray Pringle, Allen Ketelsen, and Mike Needham. According to the Walla Walla County assessor's page the land is owned by Mr. Allen Ketelsen. The contact and representative of the applicants is listed as Mr. Ray Pringle. According to Mr. Pringle the lands and its water right are shared equally between Ray Pringle, Allen Ketelsen, and Mike Needham.

It is estimated that the maximum instantaneous quantities authorized under this right are still being put to beneficial use. It appears that the irrigation system may have more capacity than authorized under the right, but was not confirmed since the meter did not work. Production from the proposed pump station cannot exceed the maximum authorized quantity and shall be reduced if necessary. The maximum authorized quantities of this right are 0.062 CFS (28 gpm) from 04/01 to 07/01, 0.047 CFS (21 gpm) from 07/01 to 10/01 and 0.093 CFS (42 gpm) from 10/1 to 04/01. Water is typically available from the source.

The maximum authorized water duty of this certificate is 5 acre-feet per year, per acre. According the adjudication 4.2-acre-feet per acre is the maximum allowed when water is available during the regular irrigation season, which is authorized from April 1 to October 1. If a full quantity of water is not available during the regular irrigation season, then water may be diverted from October 1 to April 1 up to a maximum of 5 acre-feet per acre. Historically, this right was used to irrigate a variety of crops but with the irrigation of lawn/pasture being the most common. The State of Washington Irrigation Guide (WA210-VI-WAIG) states that 2.9 acre-feet per acre, for pasture is required in the Walla Walla area. At a

75% efficiency rate of application, the maximum water duty, for the crop listed above, is 3.9 acre-feet per year, per acre. This results in an allocation of 17 acre-feet per year for the irrigation of 4.4 acres.

Proposed Use

The applicant proposes to change the point of diversion to an existing pump station.

Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water right certificates, permits, and claims within the project and the surrounding area. The search focused primarily on Section 23, T. 7 N., R. 36 E.W.M. The review of Ecology records shows no other water rights appurtenant to the authorized place of use.

Impairment Considerations

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, not including earlier filed applications (HB 1832); and/or 2) to prevent the beneficial use of the water to which one is entitled; and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200); and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

This application is requesting authorization to change the point of diversion to Walla Walla River Adjudicated Certificate No. 120(A). The exact location of the authorized points of diversion is unknown due to the error on the certificate of change. It is entirely possible that the proposed diversion was the intended source from the certificate of change. The proposed point of diversion is located downstream from the point of diversion authorized under the original certificate issued in 1929. No major diversions or significant changes occur in Yellowhawk Creek between the originally authorized point of diversion (the diversion authorized on the original certificate) and the proposed point of diversion. Use of this unauthorized point of diversion for many years has not resulted in any complaints of impairment. Therefore, this change is not anticipated to cause any impairment to existing rights.

Conclusions

In conclusion, there is a water right available for change under Walla Walla River Adjudicated Certificate No. 120(A). In accordance with Chapters 90.03 RCW, approval of this application to change the point of diversion will not enlarge the quantity of water historically authorized, nor will it impair existing rights provided the terms and conditions above are followed.

The amount of water recommended is a maximum limit that shall not be exceeded, and the water user may only use that amount of water within the specified limit that is reasonable and beneficial. This authorization does not increase in any way the original amounts authorized by the certificate.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

0.062 CFS from 04/01 to 07/01
0.047 CFS from 07/01 to 10/01
0.092 CFS from 10/1 to 04/01 (when allowed in accordance with the Walla Walla Adjudication)
17 acre-feet per year
Irrigation of 4.4 acres

Point of Diversion

NW¼SW¼, Section 23, Township 7 North, Range 36 E.W.M.

Place of Use

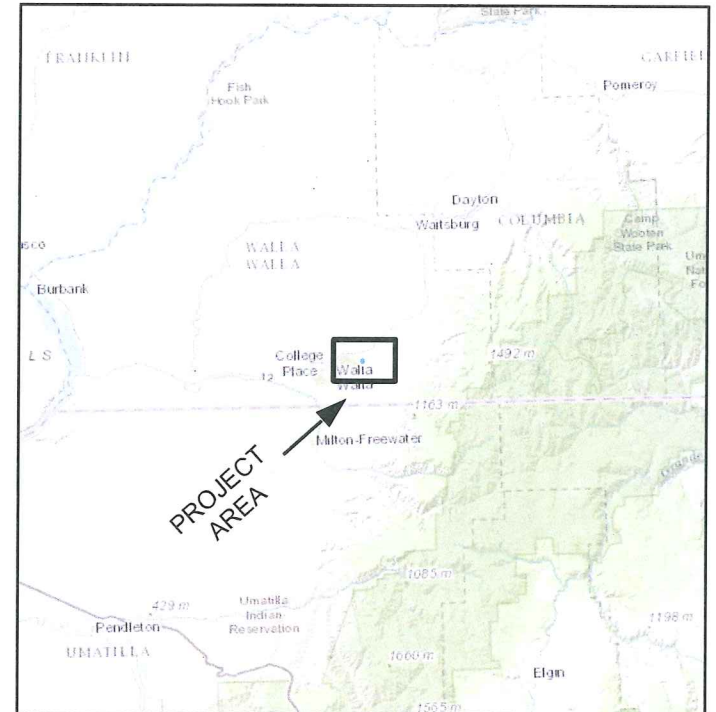
As described on Page 2 of this Report of Examination.


Dan Tolleson, Report Writer


Date

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Ray Pringle, Allen Ketelsen, Mike Needham
Walla Walla Adjudicated Certificate No. 120(A)



Basemap - (ESRI US Topographic Maps)

Legend



Authorized Place of Use



Townships



Sections



Authorized Point of Diversion

0 330 660 1,320 1,980 2,640 3,300 Feet

Basemap - (NAIP 2013 1m color)



Map Date: 10/30/2014



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.